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RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Written statement submitted by Human Rights Advocates, a non-governmental organization in consultative status (Category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[9 February 1994]

1. Human Rights Advocates (HRA) shares the international community's concern with the increasing number and intensity of conflicts involving minorities around the world. HRA therefore had high expectations from the final report presented last summer to the Sub-Commission, entitled "Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities" (E/CN.4/Sub.2/1993/34 and Add.1-4). The report contains important contributions in some areas but falls short in its main task. HRA was particularly disappointed with the haste with which expert members of the Sub-Commission addressed this critical issue last summer and the extremely short time allocated to NGO contributions.

2. In terms of positive contributions, the study includes an exhaustive and useful compilation of international human rights law concerning minority rights, with a rich discussion on the right to existence and identity.

3. Another important contribution of the study is the constructive recommendations found in Addendum 4, including proposals for long-range conflict prevention through education, legislative implementation of human rights norms relating to minorities, monitoring on national and international levels, and reconciliation machinery.

4. HRA especially welcomes the Special Rapporteur's recommendation that the Sub-Commission, Commission on Human Rights and the Centre for Human Rights assume a more active role in the promotion and protection of minority rights. In this regard, the recommendation for a Commission on Human Rights working group on minorities is reassuring. The rich experience and constructive contributions of the Working Group on Indigenous Peoples could serve as guidelines for a working group on minorities. Such a working group should be open to all minorities, regardless of consultative status with the Economic and Social Council, to air their grievances and to obtain relief. Equally commendable is the recommendation that the Sub-Commission set up a task force to develop a comprehensive programme of action to promote minority rights.

5. However, we would point to a shortcoming in the recommendations, which is the absence of proposed measures to address post-conflict reconciliation and peace-building measures in cases when a minority group decides to remain within the inherited State.

6. Unfortunately, the report falls short in its main task - possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities where conflicts are already manifest.

7. The Special Rapporteur relies on the good will of States to take their obligations regarding minorities seriously and hopes that new generations will emerge with a more positive attitude towards minorities. The Special Rapporteur also relies correctly on the new foundation for world order established with the adoption of the Charter of the United Nations and the Universal Declaration of Human Rights. However, based on the overly optimistic prospect of such a generation emerging, and despite the dismal historical record of good will displayed by many States regarding minorities, the Special Rapporteur then builds a framework of solutions based on the paramount principle of maintaining the territorial integrity of inherited States. Furthermore, the Special Rapporteur repeatedly blames minorities for the violence which befalls them, even if committed by States. Finally, the Special Rapporteur makes sweeping generalizations about the exaggerated role of so-called "ethnic entrepreneurs" who threaten the territorial integrity of States.

8. Obviously, many States fulfil their obligations under the Charter and the International Bill of Human Rights. However, it is equally obvious that many others do not fulfil their obligations. In those States, minorities continue to be oppressed and their right to existence and identity threatened. In many cases, national and international mechanisms are not adequate to address their urgent grievances. In order to resist State violence and to protect their right to existence and identity, minority groups often have no alternative but to resort to self-help and self-defence.

9. The interpretation of the right to self-determination found in the report is arbitrarily restrictive and not supported by the Charter of the United Nations. HRA has already submitted to the Commission on Human Rights another written intervention addressing the shortcomings of the report on the right to self-determination. None the less, we wish to reiterate that, as stated by an expert member of the Sub-Commission during the debate on the

subject last summer, the question of self-determination is not addressed adequately in the report and could best be addressed in an advisory opinion by the International Court of Justice.

10. The Sub-Commission study is also limited by its "Eurocentrism". The Special Rapporteur cites a number of cases of domestic legislation and mechanisms for conflict resolution. However, 64 per cent of examples cited are States in Europe or in the Western industrial world, 5 per cent in Central and Eastern Europe, 16 per cent in Latin America, 8 per cent in Asia, and only 7 per cent in Africa. In addition, while listing successful pluralist arrangements, the study takes into consideration only government reports to CCPR or CERD. Minority groups' opinions are not taken into consideration in order to assess the rate of success reported by Governments. The international community's approach to this issue would be greatly enriched by further examination of more non-European experiences.

11. We could cite more shortcomings of this study. Instead, HRA has prepared a detailed paper commenting on the study presented to the Sub-Commission, copies of which can be obtained from representatives of HRA.

12. In conclusion, HRA agrees with the Special Rapporteur that the most important requirement for peaceful solutions to minority problems is to have available mechanisms for conflict resolution on national as well as international levels which can respond effectively to minority grievances. However, we would add that this response must be speedy and it must address minority groups' concerns for their right to existence and identity with a balanced approach between State interests and the long-range protection of human rights.

13. HRA is hopeful that the Sub-Commission task force and the Commission working group on minorities proposed by the Special Rapporteur would be the first steps to fulfil this task.

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